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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,406	01/06/2004	Anthony G. Lutfallah	1247 P 290	3878

7590 01/20/2006

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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3676

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/752,406	<b>Applicant(s)</b> LUTFALLAH, ANTHONY G.	
	<b>Examiner</b> Carlos Lugo	<b>Art Unit</b> 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 24 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24 and 30-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on November 28, 2005.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 24 and 30-34 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,806,900 to Bratcher et al (Bratcher) in view of US Pat No 6,575,681 to Kojima et al (Kojima).

Regarding claim 24, Bratcher discloses a window stop (10, see Figures 1-9) that comprises a housing (12) defining a cavity and having a mount structure capable of being mounted to a wall having a thickness between a minimum and a maximum thickness; a bolt (14) mounted inside the housing; biasing means (16 and 18); a cover (32) defining a lip; and a resilient tab or extension member (34). The bolt is moveable between an extended and a retracted position (Figures 7 and 8).

Bratcher fails to disclose that the engagement surface is inclined with respect to the lip and that comprise at least one ridge or protrusion making the surface as a variable surface and where at least one ridge or protrusion is inclined away from the lip. Bratcher illustrates that the engagement surface is parallel with respect to the lip.

Kojima teaches that it is well known in the art to provide a device that is going to be mounted into a frame with a resilient tab (40) having an inclined, planar and smooth engagement surface with respect to a lip (21) of a cover (20) that comprise at least one ridge or protrusion (41a-c) making the surface as a variable surface and where at least one ridge or protrusion (41c) that is inclined away from the lip so as to make the device capable of being mounted to different thickness of the frame (Figures 7a-7c).

Kojima further illustrates that the engagement surface is spaced from an end wall (31) and that a distal end of the tab is spaced from the end wall when the tab is in an unflexed position (Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the resilient tab described by Bratcher with an inclined engagement surface, as taught by Kojima, in order to secure the latch into the notch or opening on a wall or at a frame having any thickness.

#### ***Response to Arguments***

4. After further search and consideration, a new rejection has been made on record in view of Bratcher, as modified by Kojima, in order to teach that it is well known in the art to provide a device that is going to be mounted into a frame with a resilient tab having an inclined, planar and smooth engagement surface with respect to a lip of a cover that comprise at least one ridge or protrusion making the surface as a variable surface and where at least one ridge or protrusion that is inclined away from the lip so as to make the device capable of being mounted to different thickness of the

frame. Therefore, the previous indication of allowability of claims 24 and 30-34 has been withdrawn in view of the new rejection.

**Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.



Carlos Lugo  
Patent Examiner  
AU 3676

January 12, 2006.